IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1635 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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FEDERATION OF ENGINEERING SERVICES ASSOCIATION & 1 - Petitioner(s)
Versus
STATE OF GUJARAT & 5 - Respondent(s)

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Appearance :

NOTICE SERVED for Petitioner(s) : 1,MRS KETTY A MEHTA for Petitioner(s) : 1 - 2.
Mr. Dipen Desai, AGP for Respondent(s) : 1, 5,
NOTICE SERVED BY DS for Respondent(s) : 2,
RULE UNSERVED for Respondent(s) : 3,
Ms. Shanu S. Pathan for MR AM RAVAL for Respondent(s) : 4,
None for Respondent(s) : 6,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH
Date : 11/01/2007

ORAL JUDGMENT

Present Special Civil Application has been filed under Article 226 of the Constitution

of India by the Federation of Engineers Association of Gujarat Water Supply and Sewerage Board challenging the appointment of respondent No.4 as 'Member Secretary' of the respondent Board, i.e., Gujarat Water Supply and Sewerage Board.

2. It is the contention on behalf of the petitioners that the respondent No.4 does not possess the qualification required for appointment as 'Member Secretary' of the Board more particularly as prescribed under Section 4(1)(b) of the Gujarat Water Supply and Sewerage Board Act, 1978. It is the contention on behalf of the petitioners that the respondent No.4 is having qualification of Mechnical Engineer and all the projects and works of the Water Supply and Sewerage Board are necessarily being carried out by the Civil Engineers and Mechanical Engineers have limited experience in respect of tubewells and pumping station which cannot be

said to be an experience required for carrying out water supply and sewerage works. On going through the affidavit-in-reply, it appears that the contention on behalf of the respondents is that the respondent No.4 has acquired training in the groundwater development and he had gained sufficient experience in water supply and sewerage works. It is further submitted that, the service record of 8 senior-most engineers in terms of their qualification and experience were examined before selecting respondent No.4 and the respondent No.4 was found to be most suitable for appointment as 'Member Secretary' and therefore he has been selected.

3. In view of the above, when the respondents after considering the service record, qualification and experience of some senior most engineers have found respondent No.4 to be the most suitable person for appointment as 'Member Secretary', it cannot be said that the said

action is in any way illegal and/or that it warrants interference of this Court. This Court is not sitting as an appellate authority against the selection and appointment of respondent No.4.

4. It is required to be observed that the respondent No.4 was appointed as 'Member Secretary' by order dated 18th February 1997. By order dated 19th March 1999, the learned Single Judge of this Court by a detailed and reasoned order refused to grant interim relief, and that is how the respondent No.4 has been working as 'Member Secretary' of the Board at least since 1997.

5. For the reasons stated above, the petition fails and is dismissed. Rule is discharged. No costs.

[M.R. Shah, J.]

rmr.